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09/544,718	04/06/2000	Eduardo Cue	P2513/561	9145

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EXAMINER
ZURITA, JAMES H

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3625	

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>22 august 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>86,88-94,96-102 and 104-109</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>86, 88-94, 96-102, 104-109</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

On 22 August 2006, applicant amended claims 86, 94, 102.

Claims 86, 88-94, 96-102, 104-109 are pending and will be examined.

Related Applications

Page 5, line 5 of the specifications appears to refer to application 09/545034,

with docket number P2512/560. Other related applications include:

Appl#	docket	Filed	Title
09544718	P2513/561	04/06/2000	Virtual Bundles
09545034	P2512/560	04/06/2000	Custom Stores
09607913	P2514/001580-569	06/30/2000	Stored Order System For Electronic Commerce
09945208	P2639-767	08/31/2001	Electronic Single Action Software Distribution

Claim Objections

Claims 91, 99 and 107 refer to "...a requestor is identified..." and should

be changed to "...*the* requestor is identified...' since requestor was introduced in

parent claims.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

Claims 86, 88-94, 96-102, 104-109 are rejected under 35 USC 103(a) as being

unpatentable over *Henson* (US 6,167,383, filed 09/22/1998, issued 12/26/2000) in view

of **_Joseph E Maglitta_**, Special Dell-ivery, Electronic Business. Highlands Ranch: Dec

1997.Vol.23, Iss. 12; pg. 43, 8 pgs, retrieved from ProQuest Direct on the Internet on

10 November 2006, and further in view of **_Dell Computer_** Corporation: Dell launch [sic]

latest version of their premier page service via Internet, M2_PRESSWIRE 12/19/98.

The references disclose **_Premier Pages_** services provided by DELL COMPUTERS ™

  As per claim 86, Henson discloses systems and methods for presenting

customized bundled products to members of a group for purchase on a vendor's e-

commerce site, comprising:

  a server application that is responsive to a request from an authorized user

associated with said group to present a first interface that enables said [authorized] user

[associated with said group] to define a plurality of virtual bundles, where each virtual

bundle comprises a set of one or more products supplied by the vendor and selected by

said [authorized] user [associated with said group]. In **_Henson,_** see at least references

to _Premier Pages,_ Col. 14, lines 35-61; **_Dell Computer_** elaborates on functions of **_Premier_**

Pages, and teaches: Custom store web page: Premier web pages as a particular type of

customer set. See also applicant's admissions concerning Premier Pages, that Dell

Computer discloses (a) an authorized user [possibly at Dell, and authorized in that the

user has authority to create customized secure pages] (b) associated with the group

[the authorized user is associated with the group in that the customizes and configures

pre-bundled systems] (c) configures pre-bundled systems for requestor members of the

group.

- **a database** that stores information pertaining to the products in each virtual bundle defined by said [authorized] user [associated with said group] (see, for example, Fig. 1, item 24); and

- **a server application** that is responsive to a request at said vendor's e-commerce site, which request identifies the requestor as a member of said group, to present a second interface (e.g., Figs. 3-5) that retrieves said information from said database, displays the virtual bundles of products defined by said authorized user [associated with said group] and allows said requestor to select one or more of said predefined virtual bundles for purchase. Henson teaches a smart configurator that presents a base product selected by the customer using a Premier Page (e.g. Dell Dimension XPS R mini tower computer) and presents required compatible components (e.g. memory, monitor), bundled software, and optional accessories (Paper #4, Henson: see Fig. 4 (70)) (please note examiners interpretation: smart configurator instantiated data by dynamically generating a bundle of products and accessories for a customer to select).

As per claim 86, Henson *does not* specifically state that requestor members of the group are allowed to select predefined virtual bundles for purchase <u>without further configuration or option selecting</u>. This feature is disclosed by Maglitta, page 5, section entitled "Step1: Order Taking", which discloses that employees requestors members of a defined group may pick a *pre-selected model*, rather than having to configure a desired system.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Henson with Maglitta to disclose that requestor

members of the group are allowed to select predefined virtual bundles for purchase
without further configuration or option selecting.

One of ordinary skill in the art at the time the invention was made would have
been motivated to combine Henson with Maglitta to disclose that requestor members of
the group are allowed to select predefined virtual bundles for purchase without further
configuration or option selecting for the obvious reason that services like Premier Pages
permit groups such as companies to standardize their computer systems and reduce
the amount of time in getting inventory.

As per claim 88, Henson discloses a server application that determines whether
any of the selected products of a virtual bundle are obsolete or upgradeable, and
provides a notification to said authorized user [associated with said group] if such a
product is detected (see, for example, at least Col. 9,line 56-Col. 10, line 18).

As per claim 89, Henson *does not* specifically disclose a first interface that
enables the authorized user [associated with said group] to indicate the order in which
the defined virtual bundles of products are displayed in said second interface. This is
admitted prior art, officially noted on page 6 of the Office Action of 28 February 2003
and not traversed: that since control and manage the content of their own Premier
Pages and since the primary customer interface is a web browser, there is at least one
web page devoted to administrative functions for a least the purpose of identifying which
products are eligible per the volume purchase agreement.

Therefore, it would have been obvious to one of ordinary skill in the art at the
time the invention was made to combine Henson with knowledge of one of ordinary skill

in the art at the time the invention was made to disclose a first interface that enables the authorized user [associated with said group] to indicate the order in which the defined virtual bundles of products are displayed in said second interface.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Henson with knowledge of one of ordinary skill in the art at the time the invention was made to disclose a first interface that enables the authorized user [associated with said group] to indicate the order in which the defined virtual bundles of products are displayed in said second interface for the obvious reason that such arrangements allow authorized users [associated with said group] to indicate preferred configurations of various bundles.

As per claim 90, Henson discloses that stored information includes an identification of a main product in a virtual bundle whose image is displayed on said second interface (see, for example, references to base computer system "chassis", as in Col. 15, lines 31-45, for the image, see Fig. 3A).

As per claim 91, Henson discloses that a requestor is identified as being a member of said group by means of information indicating that the request is coming from a secure resource associated with the group (see Col. 14, lines 18-34).

As per claim 92, Henson discloses that the database stores base prices for the products supplied by the vendor and a pricing tier for the group, and wherein the information stored for each virtual bundle includes a group price computed from said base price and pricing tier (see, for example, references to customer set or group

discounting such as for government discounting, retail discounting, different discounted

pricing lists, as in Col. 10, lines 30-48, i.e., pricing tiers).

As per claim 93, Henson discloses a server application that recalculates said

group price and updates said stored information for the virtual bundles (see, for

example, Fig. 3B, item 72, "update price").

Claim 94, drawn to a method, is rejected on the same grounds as claim 86.

Claim 96, drawn to a method, is rejected on the same grounds as claim 88.

Claim 97, drawn to a method, is rejected on the same grounds as claim 89.

Claim 98, drawn to a method, is rejected on the same grounds as claim 90.

Claim 99, drawn to a method, is rejected on the same grounds as claim 91.

Claim 100, drawn to a method, is rejected on the same grounds as claim 92.

Claim 101, drawn to a method, is rejected on the same grounds as claim 93.

Claim 102, drawn to a medium, is rejected on the same grounds as claim 86.

Claim 104, drawn to a medium, is rejected on the same grounds as claim 88.

Claim 105, drawn to a medium, is rejected on the same grounds as claim 89.

Claim 106, drawn to a medium, is rejected on the same grounds as claim 90.

Claim 107, drawn to a medium, is rejected on the same grounds as claim 91.

Claim 108, drawn to a medium, is rejected on the same grounds as claim 92.

Claim 109, drawn to a medium, is rejected on the same grounds as claim 93.

Response to Arguments

Applicant's arguments filed 22 August 2006 have been fully considered.

comments concerning applicant's contradictory statements are noted.

Objections concerning "obsolete" are withdrawn in view of explanation.

On page 9, Applicant argues:

No disclosure is made in the cited reference of a system wherein the bundled products
are selected by the administrator and further wherein the requestor must select one of
the pre-defined bundles without further configuration or option selecting. [emphasis in
original]

Applicant's comments are beside the point; the claims do not refer to

"…requestor *must* select one of the predefined bundles [etc.]…" The claims refer to

"…*allow[-ing]* said requestor to *select* one or more of said predefined virtual bundles

for purchase [etc.]…"

On page 10, Applicant argues:

…Applicant assumed that this [new] limitation would be implied in the claims because the
claims do not positively recite an element which states that the requestors are allowed to
configure the bundles, but instead only contains a limitation that "allows the requestor to
select a pre-defined bundle." The Examiner has apparently read the limitation that
requestors be allowed to configure the bundles into the claim. However, the Applicant
has now explicitly added the limitation that bundles are not to be configured by the
requestor by the amendments above.

Applicant's comments are beside the point. The limitations are not in the claims.

The claims do not refer to "…bundles are not to be configured *by the requestor*…"

The claims refer to "…requestor to select …for purchase *without further configuration*

or option selecting." The claim does not specify who/what can/cannot perform

configuration or option selecting.

During prosecution, terms of a claim are given their broadest reasonable

interpretation. The Examiner relies on the term's ordinary meaning and broadest

reasonable interpretation. *E-Pass Technologies, Inc. v. 3Com Corporation*, 343 F.3d

1364, 1368, 67 USPQ2d 1947, 1949 (Fed. Cir. 2003).

On page 10, Applicant argues:

> With respect to the reference to Dell Computer [M2Presswire, 12/19/98], the Applicants
> respectfully submit that Dell does not disclose a special administrative user from the
> group who is able to configure products and in addition, buyers from the same group able
> to select the predefined bundles for purchase.
>
> [cited text omitted, from M2Presswire, 12/19/98]
>
> The Dell reference does not define an **administrative user** having access to create
> virtual bundles for purchase by other members of the **administrator's group**. Only users
> of type User (can see product details, but not purchase), Buyer (have access to the
> purchase details and the "BUY" button), or Manager (can access all information,
> including detailed management reports) are defined as **user types** from the **customer**
> group. Thus, the administrative user, able to pre-configure bundles for purchase, is not
> taught or disclosed.

Applicant's comments are beside the point; these limitations are not in the

claims. There is no mention of a "...special administrative user..." "...having access to

create..." "...other members of the administrator's group..." "...user types from the

customer group..." "...[administrative user] able to pre-configure..."

On pages 11 and 12, Applicant argues:

> ...[Henson] ...clearly states that the computers available for purchase on the system
> described by Henson are customizable or configurable computer systems and that the
> system has a database provided for supplying configuration options to a software
> application (described as the configurator) in accordance with an identification of the user
> belonging to a prescribed customer set.
>
> [page 11] Therefore, the **end user** purchasing a computer is still able to configure the
> computer system from among selected options.
>
> [page 12] Thus, in [Henson], customers are able to choose different configurations and
> different options.

Applicant's comments are beside the point; the limitations are not in the claims.

There is no mention of a "...available for purchase..." "...**end user** purchasing a

computer..." The preamble of claim 86 refers to "...presenting customized bundled

products...for purchase..." and does not mention **availability**. There is also no mention

that the requestor member of the group is the **end user** of the purchase.

The Examiner notes that while Henson permits a requestor to customize and reconfigure a computer system, Henson **does not require** a user to customize and re-configure the virtual bundles. Further, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of Henson (i.e., the computers are customizable or configurable) that cannot be the basis for patentability when the differences would otherwise be obvious. See Ex parte Obiaya, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

In prior art, requestors were presented with "take-it or leave-it" decisions.

Henson compares prior art online stores with his invention, using the term "...smartness of the configurator [server applications]..." A requestor member would be presented with a welcome page of his group. The welcome page presented selections of systems (virtual bundles). The requestor would select a virtual bundle. A prior art online store would present the requestor with *the* system selected from the welcome page and include all available options of the system:

> 6)As discussed herein, the online store of the present disclosure includes a smart process. The degree of smartness of the present online store is greater than that of a prior online store, wherein a level of smartness in the prior online store was focused on the configurator. The **configurator of the prior online store** would present to the user the system selected off from the welcome page and include all available options. The smartness of the prior online store was in describing the choices for the system which the customer had selected. The present online store takes into account that some choices are not as right as others. Thus the configurator of the present online store has been made smarter...Thus the smartness of the configurator has been improved (Col. 5, line 28-54, emphasis added)

As previously noted, the concept of product bundling is neither novel nor non-obvious. Henson discloses a universe of Dell products and compatible components, peripherals, and software that are already bundled based on utility and compatibility with a specific Dell computer or family of Dell computers. Henson discloses government.

customers having their own premier page web site that provides government- specific

configurations and pricing. Dell Computer teach and suggest seller-level bundling,

bundling by an administrator, and bundling by the individual user.

The first paragraph of the Dell Computer [M2Presswire, 12/18/98], discloses

setting up systems for presenting customized bundled products to members of a group

(customers/ corporations) on a vendor's e-commerce site (Dell): Users associated with

the group set up plurality of virtual bundles (*__standard configurations__ [PLURAL]*).

Users (associated with the group) are *__authorized users__* in that the configurations they

set up *__approved standard configuration__* (emphasis added).

As applicant admits, M2Presswire discloses display and access virtual bundles of

products (previously defined by the user associated with the group).

As applicant admits, requestor members of the group (labeled User, Buyer,

Manager, for example) are allowed to select one or more of the predefined virtual

bundles (approved standard configuration) for purchase.

<u>On page 12,</u> Applicant admits that DELL's *Premier Pages*™ disclose the

claimed invention:

> ...Note also that the description of Dell's Premier Pages indicates that they are
> customized, secured pages created by Dell for its corporate and public sector customers.
> However, no mention is made of an administrator who is a member of the group being
> able to configure pre-bundled systems for members of his own group [page 12, lines 5-8]

The Examiner concurs. DELL's *Premier Pages*™ disclose applicant's

(a) authorized user *__associated__* with the group ("...secured pages created

by Dell for its corporate and public sector customers..."); and

(b) requestor who is a member of the group (different types of requestor members of the group).

To further clarify the record, the Examiner notes the following:

On 22 May 2003, applicant included the limitation "...administrator not associated with the vendor..." in claim 1.

On 27 April 2004, applicant included the limitation "...products to be bundled being selected by an administrator associated with the group..." in claim 48.

On 24 February 2005, applicant included "...request from an authorized user associated with said group...to define a plurality of bundles..." in claim 86.

On 9 September 2005, page 5, applicant argued "...virtual bundles of the present invention are wholly defined by the group's administrator and the buyers are not able to pick and choose items which are a part or not part of the bundle...."

On 1 March 2006, page 9, lines 2-4, applicant argued "...to make it clear that the requestor is allowed to select only from the predefined virtual bundles..."

On 22 August 2006, page 8, applicant argues "...requestor...must select from pre-defined bundles..."

A "traverse" is a denial of an opposing party's allegations of fact.[1] Applicants' arguments do not appear to constitute a traverse of what Examiner regards as knowledge that would have been generally available to one of ordinary skill in the art at the time the invention was made. However, even if one were to interpret applicants' statements as constituting a traverse, one would still be faced with the inquiry as to

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[1] Definition of Traverse, Black's Law Dictionary, "In common law pleading, a traverse signifies a denial."

whether the traverse is adequate. An <u>adequate</u> traverse must contain adequate

information or argument to create on its face a reasonable doubt regarding the

circumstances justifying Examiner's notice of what is well known to one of ordinary skill

in the art. <u>In re Boon</u>, *439 F.2d 724, 728, 169 USPQ 231, 234 (CCPA1971)*.

If applicant does not seasonably traverse the well known statement during

examination, then the object of the well known statement is taken to be admitted prior

art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). MPEP 2144.03

Reliance on Common Knowledge in the Art or "Well Known" Prior Art. In view of

applicant's failure to adequately traverse official notice, the following are admitted prior

art::

> ...since control and manage the content of their own Premier Pages and since the
> primary customer interface is a web browser, there is at least one web page devoted to
> administrative functions for a least the purpose of identifying which products are eligible
> per the volume purchase agreement. [officially noticed on page 6 of the Office Action of
> 28 February 2003]

Conclusion

An issue of public use or on sale activity has been raised in this application. In

order for the examiner to properly consider patentability of the claimed invention under

35 U.S.C. 102(b), additional information regarding this issue is required as follows:

1.   <u>Specifications and design documents concerning administration and setup.</u>

> The request is based on information downloaded from the Internet on 10 November
> 2006. A search **www.archive.org** shows that applicant's site has been operating at least
> since **17 January 1999**. Specific features claimed are disclosed in pages 1-3 of
> 09_544718_n_545035_ScreenImages_StoreAappleCom_01.doc.

2.   <u>specifications and design documents concerning preconfigured bundles</u>

<u>selectable by requestor members without further configuration or option selecting.</u>

The request is based on information downloaded from the Internet on 10 November
2006. A search **www.archive.org** shows that applicant's site has been operating at least
since **17 January 1999**. Specific claimed features are disclosed in pages 1-4 of
09_544718_n_545035_ScreenImages_StoreAappleEducation_02.doc. The screens
disclose pricing tiers for requestor members of the groups identified and set up by an
administrator and that selections occur without further configuration or option selecting.

3   specifications and design documents concerning claimed features.

The request is based on information downloaded from the Internet on 10 November
2006. A search **www.archive.org** shows that applicant's site has been operating at least
since *2 December 1998*. See
09_544718_n_545035_ScreenImages_StoreAappleEducation_03.doc.

Applicant is reminded that failure to fully reply to this requirement for information

will result in a holding of abandonment.

Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Zurita whose telephone number is 571-272-6766. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

James Zurita
Primary Examiner
Art Unit 3625
10 November 2006